The Manitoba Human Rights Commission

ANNUAL REPORT 2014

Your ***RIGHTS*** Start Here

THE MANITOBA **HUMAN RIGHTS** COMMISSION

LA COMMISSION DES **DROITS DE LA PERSONNE** DU MANITOBA

YOUR HUMAN RIGHTS IN MANITOBA

The underlying principle of *The Human Rights Code* (Manitoba) is the recognition of the individual worth and dignity of every person.

Discrimination under *The Human Rights Code (The Code)* is treating someone differently, to their disadvantage and without a valid reason, or failing to take reasonable steps to accommodate special needs that are based on the characteristics covered under *The Code*. *The Code* prohibits unreasonable discrimination in areas such as employment, housing, public services or contracts, and signs and notices.

The Code prohibits unreasonable discrimination on the following grounds, called "protected characteristics":

- Ancestry
- Nationality or national origin
- Ethnic background or origin
- Religion or creed, or religious belief, religious association or religious activity
- Age
- Sex, including sex-determined characteristics, such as pregnancy
- Gender identity
- Sexual orientation
- Marital or family status
- Source of income
- Political belief, political association or political activity
- Physical or mental disability
- Social disadvantage

Members of other historically disadvantaged groups, not listed in this section of *The Code*, may also be protected.

In determining whether discrimination has occurred, it is the effect, not the intention, that counts.

The Manitoba Human Rights Commission (the Commission) is the agency responsible for overseeing *The Code*. The Board of Commissioners (the Board) consists of 10 individuals who represent the geographic, cultural, social and economic profile of Manitoba. The Board reviews all complaints and determines if there is sufficient evidence of discrimination to proceed to a public hearing before an independent adjudicator. In addition to discharging its responsibilities to investigate complaints, the Commission also has a mandate to educate the public about *The Code*, and the values reflected in it.

Most employers, landlords or service providers that are located in Manitoba are regulated by provincial law and so are bound by *The Code*. Certain other businesses, such as airlines, banks, and telecommunication enterprises, as well as the federal civil service and many First Nations governments and organizations, however, are regulated by federal law. Complaints against them must, therefore, be filed with the Canadian Human Rights Commission under federal human rights law.

In most cases *The Code* overrides other provincial laws.

ATTORNEY GENERAL
MINISTER OF JUSTICE

Room 104
Legislative Building
Winnipeg, Manitoba CANADA
R3C 0V8

The Honourable Janice C. Filmon, C.M., O.M.
Lieutenant Governor of Manitoba
Room 235 Legislative Building
Winnipeg, MB R3C 0V8

May It Please Your Honour:

I have the privilege of presenting for the information of your Honour the Annual Report of The Manitoba Human Rights Commission for the year 2014.

Respectfully submitted,

Gord Mackintosh
Minister

THE MANITOBA
HUMAN RIGHTS
COMMISSION

LA COMMISSION DES
DROITS DE LA PERSONNE
DU MANITOBA

The Honourable Gord Mackintosh
Minister of Justice and Attorney General
Legislative Building
Winnipeg, MB R3C 0V8

Dear Minister:

We are pleased to forward to you, the Minister responsible for administration of *The Human Rights Code (Manitoba)*, the Annual Report of the Manitoba Human Rights Commission for the calendar year ending December 31, 2014.

Sincerely,

Yvonne Peters
Chairperson

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THE MANITOBA
HUMAN RIGHTS
COMMISSION

LA COMMISSION DES
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CHAIRPERSON'S MESSAGE

Once again, 2014 has been a year of change and renewal. We said a fond farewell to Elliot Leven, long-time Commissioner and Vice-Chairperson. I wish to thank Elliot for his wise counsel, unwavering commitment to the work of the Commission and his all around good common sense.

We also said some happy hellos. In February, we welcomed Azim Jiwa as our new Executive Director. A few months later, the Board of Commissioners was pleased to welcome the appointment of Dr. Donn Short.

Our work this year included the resolution of significant systemic complaints through mediations, a number of important adjudications, and consultations with stakeholders on the expanded role that service animals provide for persons with disabilities. Details of these can be read throughout this report, but I would like to comment in each of these areas.

The Commission recognizes that resolving issues of discrimination one complaint at a time can be time consuming and frustrating. It is the Commission's process to assess each complaint to identify systemic discrimination and, when evidence supports contraventions, to encourage broad-based systemic remedies for resolving such discrimination. Some of the Commission's greatest successes resulted from mediation. In 2014, mediations have removed barriers in Handi-Transit for persons with episodic disabilities, opened up assisted living options for adults with intellectual disabilities by challenging municipal by-laws, and made it more accessible for individuals to obtain Manitoba birth certificates that reflect their true gender identity. These systemic successes will reach far beyond the individuals that initiated these human rights complaints.

The number of human rights adjudications is on the rise in Manitoba. There were specifically two decisions, referred to in greater detail later in this report, that re-enforce and recognize the significant impact and damage that can result from discrimination or harassment. One awarded $15,000 – the highest Manitoba award to date – for injury to her dignity and self-respect after an adjudicator found that the Complainant had been sexually harassed by the owner of the business. The other decision found that, if proven to be true, $5,500 was not sufficient to address injury to dignity, feelings and self-respect experienced by a man who alleged he was asked to vacate a premise with his service animal.

In June 2012 *The Code* was amended to replace the term "guide dog" with "service animal". This expanded term raised many questions within the public regarding how to identify service animals and how to respect the rights and responsibilities of service animal users, members of the business community and government agencies. Service animals, especially dogs, are increasingly being relied upon to meet the specialized needs of individuals with a wide variety of disabilities.

After receiving a number of questions and concerns about service animals and when and where they should be given access, the Commission decided to hold consultations (two in Winnipeg and one in Brandon) with relevant stakeholders in an attempt to address these issues. The Commission moves forward into 2015 with this information and plans to release a report containing recommendations early in the New Year.

I would like to conclude my report by offering a sincere thanks to the staff of the Manitoba Human Rights Commission. The last couple of years have been somewhat challenging as we work our way through change and transition. The commitment, passion, expertise and skills of the staff, however, have not wavered. We are incredibly fortunate to have such a well-informed and hard-working complement of staff. It is a privilege to work with such esteemed individuals.

Yvonne Peters
Chairperson

2014 Highlights

The Manitoba Human Rights Commission is authorized to mediate and investigate complaints of discrimination, to refer matters to adjudication, to educate the public and to promote human rights.

New Leadership & Board Members:
Azim Jiwa became Executive Director in February 2014. Elliot Leven became Vice-Chairperson and, later in the year, retired from the Board near the end of 2014. The Board welcomed the appointment of new member Dr. Donn Short.

Service Animal Reasonable Offer Adjudication:
In 2014, for the first time, a complaint with respect to discrimination in the provision of services by a person using a service animal to assist with mental health symptoms, was considered by an independent adjudicator at a public hearing. The Complainant had alleged that he was discriminated against when a police officer required that he and his service animal leave the business, at the request of the establishment. Following an investigation, the Board determined the matter should go to a public hearing before an independent adjudicator to decide if discrimination had occurred. The Respondent made an offer to remedy the complaint which included monetary compensation of $5,500 for damages to dignity, feelings and self–respect. A hearing was held solely to determine if the offer was reasonable. The Adjudicator found that the Respondent's offer was not reasonable as it did not approximate what an adjudicator would order if the complaint were proven to be true at a hearing. The Complainant and Respondent were able to agree to a confidential settlement following this decision. A full hearing to determine the merits of the complaint was not necessary.

Successful Mediation Results in Systemic Changes to Municipal By-laws that Help All:
A human rights complaint was filed against a municipality after attempts were made to establish a home for three adults with intellectual disabilities in the community. The municipality denied the requests stating the Complainant organization needed to apply for re-zoning from "Rural Residential" to "Institutional" in order for the home to be approved. At question was also whether municipal by-laws could be challenged by human rights commissions and whether the particular by-law in question was discriminatory. Following an investigation, the Board determined the matter should go to a public hearing before an independent adjudicator. With the assistance of a Commission Mediator an agreement was reached to propose an amendment to the residential zoning by-law and, until then, the municipality's by-law would not be interpreted in a discriminatory way. The municipality also agreed to have its staff and elected officials attend human rights training on an ongoing basis. The Chief Administrative Officer of the municipality also provided input to a toolkit under development by a committee on community inclusiveness for municipalities and service providers, which will help prevent similar barriers in other municipalities.

Service Animal Consultations

"The public doesn't know the basic guidelines for service dogs, which makes going out in public an experience in anxiety."
– Service Animal Handler

"We don't have a rule book so we can assess a situation and make everyone comfortable."
– Service Providers

YEAR IN REVIEW

Proposed Changes to Vital Statistics Act Introduced:
A human rights complaint filed by one individual has resulted in proposed changes to *The Vital Statistics Act*, so that proof of transsexual surgery will no longer be required to change a sex designation on a birth certificate. The Vital Statistics Agency and the Commission formed a working group with various stakeholders to review *The Act* and to propose the change. Once passed, a person born in Manitoba will be able to apply to change his or her sex designation by providing the Agency with a statutory declaration and the written support of a health care professional.

Public Consultations Held to Examine Issues Relating to Service Animals:
The Commission wanted to learn directly from Manitobans about issues relating to service animals – from those who rely on them for disability related needs, train them, or are obligated to provide access to them. A total of three public consultations were held in Winnipeg and Brandon, where important discussions were held about barriers to access and confusion over obligations regarding service animals. It quickly became apparent that tasks that service animals can now perform are ever growing and the issue is rapidly evolving.

DREAM Youth Conferences and Rallies:
The Commission continued its annual youth education initiative by hosting two DREAM Human Rights Youth Conferences for middle school students in Shilo and Winnipeg. The focus of the conferences was to empower young people and inspire them to dream and create a world where equality exists.

Welcome to Manitoba:
The Commission welcomed the opening of the Canadian Museum for Human Rights in September 2014. While the Commission is not associated with the Museum, it recognizes that it will advance human rights discussions in Manitoba and provide and opportunity for learning and understanding.

Youth Conferences

*"The **DREAM** Panel inspired me to realize that people are never too young to make a difference."*
– Middle School Student

Any person may file a complaint that alleges discrimination has taken place in contravention of *The Code*. Complaints must generally be filed within one year of the alleged incident(s). There is no charge for filing a human rights complaint or for seeking information about a human rights issue. If a complaint is filed in time and alleges a contravention of *The Code*, the Commission must accept the complaint. Accepting a complaint does not mean the Commission has made a finding that the complaint has merit. The Commission investigates complaints that are filed to ensure that only those with sufficient evidence to support the allegations of discrimination move forward to a public hearing before an independent adjudicator.

The Commission's employees, including Intake Officers, Mediators and Investigators, are impartial and do not advocate on behalf of either the complainant (the person filing the complaint) or the respondent (the person or organization the complaint is against).

Intake

The first contact public makes with the Commission is usually with the Intake Officers. The Commission has Intake Officers in its Winnipeg, Brandon and The Pas offices.

In 2014 the Commission's Intake Officers responded to almost 4300 requests for information. Many of these calls resulted in referrals to other agencies. Approximately 1200 people (or 28%) requested an "Intake Questionnaire".

The first step in filing a complaint is completing and returning the Intake Questionnaire, along with a statement explaining the alleged contravention. Many intake calls are from employers, landlords, or service providers who are requesting information so that they are better equipped to meet their obligations under *The Code*. As a result of these contacts, 372 files were opened.

Pre-Complaint Mediation

Before a formal complaint is filed, the Intake Officer may recommend Pre-Complaint Mediation, a voluntary, without prejudice process, which is an attempt to resolve an issue prior to the filing of a formal human rights complaint. In 2014, 15 files were resolved successfully using this process. If Pre-Complaint Mediation does not resolve the matter the person may at that time choose to pursue a formal complaint.

Example: The Complainant alleged that his special needs related to his family status (parent of a young child) were not accommodated when his employer changed his shift so that he was no longer able to attend to his child after school. The Complainant provided information to demonstrate that he did not have any other childcare options. The Respondent agreed to adjust the start and end time of his shift so that he could be home from work in time to care for his child after school. The file was closed as both parties were satisfied with the resolution.

THE COMPLAINT PROCESS

Pre-Investigation Mediation

Pre-Investigation Mediation involves a Mediator contacting the parties to determine if they can work out a voluntary settlement of the complaint. This occurs after a formal complaint has been registered and served to the respondent. It is voluntary and either party or the Mediator may end the mediation at anytime. During mediation no decision about the merits of the complaint is made. In 2014, 48 matters were resolved successfully using this process.

Example: The Complainant indicated he incurred a serious injury at work which required multiple surgeries and time off work to recover. He indicated that although he was initially accommodated by his employer, he was later terminated for reasons he believed were related to his disability and time off work. The matter was resolved when the employer agreed to pay him $8,000 in general damages and $2,000 in lost wages, in exchange for a release and agreeing to keep the terms of the settlement confidential.

Investigation

Complaints that are not resolved in the mediation process are sent forward for assignment to an Investigator. In 2014, once a file was assigned to an investigator the average length of an investigation was 11 months. This time is calculated from the date the file is actually assigned, up to the time the investigation Assessment Report is disclosed.

Complaints are investigated in an impartial manner, through interviewing witnesses and obtaining documents and information to thoroughly explore the positions of both parties. An Investigation Assessment Report, which includes a summary of the relevant evidence and a recommendation to proceed or dismiss the complaint, is written for consideration by the Board. Both the complainant and the respondent are provided an opportunity to provide a written submission for the Board to consider along with the Investigation Assessment Report. The Investigators completed 130 Investigation Assessment Reports in 2014.

Withdrawn or Abandoned

The team of investigators and mediators prepared 44 reports with respect to complaints that were either withdrawn or abandoned during 2014.

Consideration by Board

The Board will consider the Investigation Assessment Report and submissions from the parties. If the Board determines that there is sufficient evidence to support a contravention of *The Code* and if it is in the public's interest, it will request an independent adjudicator to be appointed to hear all of the evidence and decide if the complainant was discriminated against.

Fast Fact:

Intake Officers answered approximately 4300 inquiries in 2014.

Fast Fact:

294 complaints were registered in 2014; the highest number since 2006 (297 complaints).

Dismissed

The Board will dismiss complaints where there is insufficient evidence to support a complaint, no contravention of *The Code* is found, or the Board is satisfied that the complaint is frivolous or vexatious. Once a case has been dismissed it does not go any further. In 2014, 104 complaints were dismissed by the Board.

Example: The Complainant worked for the Respondent casually. She applied for a full-time position with the company, but was not given an interview. She alleged that the Respondent did not interview her because of her husband and that she was denied the opportunity on the basis of her family status. The Respondent denied the allegations and maintained that her family status was not a factor in its decision.

Through the investigation it was discovered that all hiring committee members interviewed denied discussing the husband during the hiring process or that he was a factor in their decision. The Investigator compared the Complainant's application with the other candidates'. Based on her written qualifications, she did not demonstrate the desired skill set and was not an obvious candidate to interview. Further evidence that her family status was not a factor was that the Complainant was already an employee of the Respondent. The Board determined there was insufficient evidence to support her allegations of discrimination based on family status and her complaint was dismissed.

Board Directed Mediation

The Board will consider the Investigation Assessment Report and submissions from the parties. If the Board determines that there is sufficient evidence to support a contravention of *The Code* and if it is in the public's interest, it will request an independent adjudicator to be appointed to hear all of the evidence and decide if the complainant was discriminated against. The Board will usually offer the parties another opportunity to voluntarily resolve the complaint through mediation, before it requests that the independent adjudicator be appointed and the matter proceeds to a public adjudication hearing. In 2014, the Board referred 22 complaints forward to Board Directed Mediation and/or Adjudication.

If a voluntary settlement cannot be reached, the respondent may request that the Board assess whether its proposed offer of settlement is reasonable. A respondent's offer can only be found to be reasonable if the Board finds it approximates what an adjudicator would likely award the complainant if the complaint were to proceed to an adjudication hearing and the allegations in the complaint were proven to be true. If the Board determined the offer to be reasonable the complainant is given a final opportunity to accept the reasonable offer before the Board terminates the complaint.

Fast Fact:

In 2014, 63 complaints were successfully mediated during the Pre-Complaint Process, the Pre-Investigation stage or during the investigation.

Fast Fact:

In 2014, 104 of the complaints investigated were dismissed by the Board.

THE COMPLAINT PROCESS

In 2014, eight complaints resolved voluntarily in Board Directed Mediation. The Board of Commissioners determined that the respondents had made reasonable offers in an additional five complaints.

Example: The Complainant alleged that he was being treated differently by his employer on the basis of his age. He worked for a company which provided health and life insurance as part of its compensation package. When the Complainant turned 65, although he continued to work for the employer it no longer provided him with insurance benefits. After an investigation the Board determined that the evidence supported that the Complainant was discriminated against without bona fide and reasonable cause. The Board decided the complaint should proceed to adjudication. The parties were provided an opportunity to voluntarily resolve the complaint before an adjudicator was appointed. The matter was voluntarily resolved with the Respondent agreeing to pay the Complainant $4,200 in special damages to compensate for private health insurance that had been purchased and $240 per month in special damages to cover the ongoing cost of private health and life insurance continuing monthly until the Complainant is no longer working for the Respondent or age 70, whichever comes first. In exchange, the Complainant signed a release and agreed to keep the terms of the settlement confidential.

Referred to Adjudication

When complaints are referred to Board Directed Mediation, it lets the parties know that if the mediation is not successful, the matter will proceed to public adjudication. In 2014, 12 files were referred to adjudication to be heard before an independent adjudicator.

Complaints Settled Prior to Adjudication

The Commission's Legal Counsel will make a final attempt to settle the matter before adjudication.

In 2014, 11 complaints were resolved with the assistance of the Commission's Legal Counsel, prior to a scheduled hearing, with the specific terms of the settlement remaining confidential. This number was substantially higher than in previous years.

Settlements generally include compensation for any lost income or benefits, compensation for injury to the complainant's dignity, self-respect and some means of addressing future compliance with *The Code*. In some instances, mediated settlements (at any stage of the process) may include both parties agreeing to a settlement being made public. Notably, one complaint resulted in changes to Handi-Transit's application and assessment process to acknowledge chronic episodic disabilities, specifically referencing pain and fatigue as impacting mobility.

Fast Fact:

The Commission's Legal Counsel resolved 11 complaints prior to their scheduled adjudication dates.

Fast Fact:

Eight complaints were heard by an independent adjudicator at public hearings.

Legal Proceedings

Adjudicators are appointed by the Government of Manitoba and are not employed by, or connected to, the Commission.

In 2014, eight complaints were heard by an independent adjudicator in a public hearing, including one that was before an adjudicator solely to determine if the respondent's offer was reasonable. Five of these complaints were complaints of sexual harassment in the workplace, one was of discrimination based on pregnancy and two were based on disability.

One of the sexual harassment decisions determined that the male owner of a small retail outlet sexually harassed his female employee on a number of occasions. The adjudicator awarded the Complainant $15,000 in compensation for injury to dignity; the highest amount ever awarded in Manitoba. Decisions such as this, have brought Manitoba in line with awards for damages to dignity and self-respect that are being issued across the country.

The complainant was also awarded compensation for lost wages and specifically, to address the respondent's malice and recklessness.

In 2014, four decisions were issued based on complaints heard in 2014 or previous years. All decisions can be found on the Commission's website.

Fast Fact:

The majority of the complaints, 44 per cent, were based on disability. Of these, 67 per cent dealt with physical disabilities and 33 per cent dealt with mental disabilities.

Seminars

"Provided clarity of the difference between harassment and bullying and the need to investigate complaints."

Fast Fact:

Approximately 600 people attended Commission seminars, which were held both at the Commission's offices as well as at other sites. The Outreach Officer and other staff delivered presentations about human rights protections and the Commission to an additional 2,500 people. Over 350 students attended DREAM Youth Conferences.

AWARENESS OF HUMAN RIGHTS AND RESPONSIBILITIES

In response to a growing number of complaints and inquiries regarding service animals, the Commission undertook a special project in 2014, holding a total of three public consultations groups (two in Winnipeg and one in Brandon) to discuss the emerging issues. Landlords, service providers and schools, for example, were looking for answers with respect to how to determine if an animal is a *bona fide* service animal and not a comfort pet.

Armed with the Commission's working definition of a service animal being one that is trained to do work or perform tasks for a person with a disability, the Commission met with over 100 people, ranging from people who relied on service animals to those in the hospitality tourist industry, schools, service providers, employers and service animal trainers to discuss the rights of access for persons with disabilities when accompanied by their service animals.

An immediate theme was recognized: that there is a need for more information about service animals and how they should be accommodated by employers, landlords and service providers. Following the consultations, which concluded in the fall, the Commission reviewed the information gathered with the intent of releasing a report outlining its findings early in 2015.

The Commission continued to take an active role to ensure that Manitobans were made aware of their rights and responsibilities under *The Code*, delivering over 12 employment seminars to 190 people. In response to an increase in requests, 10 employment seminars were delivered on-site to over 400 employees, one of which was targeted towards landlords and rental situations.

Outreach

"The information we have learned today proved to be really useful in guiding our clients in their transition, for them to be able to understand better, and act on any potential discrimination they may experience. We hope to continually work with you in assisting newcomers achieve success in Manitoba."

Youth education also was one of the Commission's priorities, with two youth conferences targeting junior high students offered in April in Shilo and Winnipeg. Both youth conferences were at capacity with over 350 students and teachers in attendance. The DREAM Youth Conferences engaged students and teachers to **D**iscover their rights; **R**ealize the power of one to impact change; **E**xpress themselves and be confident enough to **A**ct and speak to help others and finally to **M**otivate others with what they learned.

Throughout the year, the Commission continued to create new guidelines and policies to assist Manitobans in understanding their obligations and rights under *The Code* and the processes the Commission employs while investigating human rights complaints. New guidelines and fact sheets released in 2014 included information on "Requesting Medical Information", reasonable accommodation, harassment and sexual harassment. They were posted on the website and introduced on the Commission's Facebook page which continued to increase its followers.

International Human Rights Day was once again celebrated with four Manitobans/organizations receiving Human Rights Awards. The Annual Human Rights Commitment Award of Manitoba recognizes those who have promoted respect for human rights and fundamental freedoms and have advanced the rights of Manitobans. The recipients of the 2014 Human Rights Commitment Award of Manitoba were Althea Guiboche (also known as the Bannock Lady); PRIDE Winnipeg; and Rana Abdulla.

The annual Sybil Shack Human Rights Youth Award recognizes the work of a person or group of people, 25 years old and under that has had an impact on the advancement of human rights as guaranteed in the Canadian Charter of Rights and Freedoms and human rights legislation in Manitoba.

The recipient of the Sybil Shack Human Rights Youth award for 2014 was Alana Robert.

REPORT FROM THE EXECUTIVE DIRECTOR

When I joined the Commission in February of 2014 I was immediately impressed with the good work the Commission was doing and the strong sense of commitment that the staff and Board of Commissioners held. I am grateful to both the staff and Board for this dedication.

The Commission was busy throughout 2014 as it continued to fulfill all the aspects of its mandate. Compliance work included responding to public inquiries; drafting complaints of individuals that alleged that their rights had been violated and who wanted to pursue a formal complaint; attempting to resolve complaints through mediation; investigating complaints that were not resolved through mediation; putting forward Investigation Assessment Reports for the Board to determine whether further mediation and a hearing before an independent adjudicator should take place; and lastly, representing the public interest in having carriage of the complaint at hearings. The number of complaints that have been referred to hearings has been noticeably higher in recent years, which resulted in eight hearings during 2014 and an additional 11 complaints that were resolved prior to the hearing with the assistance of the Commission's Legal Counsel. The year saw both notable voluntary resolutions as well as adjudicated decisions.

As has been noted in previous annual reports of the Commission, the statistics in this report are helpful in providing a snapshot of the type of discrimination that exists in the province. They are useful in identifying trends rather than as a measurement of how much discrimination there is. It is important to remember that not all those who experience discrimination choose to file a complaint with the Commission.

An important aspect of the Commission's mandate is to educate the public about rights and responsibilities with respect to human rights under *The Code*. The Commission continued to take a multi-faceted approach to education; reaching out to youth to help them not just to be future leaders, but also present leaders, in the area of human rights. The Commission sees youth as a catalyst for positive societal changes and actively seeks to engage with them in the hope of making this their aspiration. The Commission also maintained its presence in the community through its outreach programs, focusing on newcomers who do not always understand human rights concepts as they exist in Manitoba. Lastly, the Commission hosted its popular seminars that targeted employers, landlords and service providers to help create greater understanding of human rights issues, their obligations under *The Code*, and practical ways of addressing human rights issues.

In response to an increase in complaints and inquiries involving service animals, the Commission held public consultations, seeking input from stakeholders regarding service animals. The Commission heard from service providers, service animal users, trainers, landlords, employers, and other stakeholders, and was very pleased with the amount of public input it received regarding this increasingly complex and developing area and will release its findings early in 2015.

2014 saw the departure of Elliot Leven, Vice-Chairperson; Stacey Belding, Manager of Investigation and Policy Development; and the retirement of Intake Officer/Youth Conference Co-Chair Lorraine Lambert. I thank each of them for their significant contributions to the Commission.

The Commission welcomed Dr. Donn Short to the Board and is enthusiastic about his involvement.

As an independent government agency, the Commission has an important role to play in promoting and protecting human rights in Manitoba. The Commission endeavours to effectively carry out all aspects of its mandate and continues to explore new and better ways of achieving its goals.

Azim Jiwa
Executive Director

BOARD OF COMMISSIONERS

Chairperson

Yvonne Peters

has a Bachelor of Arts and a Bachelor of Law from the University of Saskatchewan and a Bachelor of Social Work from the University of Regina. She practices equality rights law in Winnipeg, providing legal consultation and advice. She serves as the Vice-Chair of the Accessibility Advisory Council appointed by the Honourable Jennifer Howard, Minister Responsible for Persons with Disabilities. Her community work includes serving as a council member of the Manitoba Bar Association, as a member of the Council of Canadians with Disabilities' Human Rights Committee and as a board member of the Winnipeg Folk Festival.

Vice-Chairperson
(until September 2014 – Vacant from October to December 2014)

Elliot Leven

is a lawyer by profession and for many years he practiced labour, employment, administrative, criminal and Aboriginal law. He is a champion of "plain language" usage by lawyers. He is an active member of Winnipeg's gay and Jewish communities, a past Chairperson of the Community Unemployed Help Centre, a member of various Law Society of Manitoba committees, and a member of the Manitoba Bar Association. He was also a sessional lecturer at the University of Winnipeg. Elliot was a Manitoba Human Rights Commissioner from 2002 to 2014. In the fall of 2014, he left the Commission to become Deputy Chief Commissioner of the Residential Tenancies Commission.

Commissioners

Leo Aniceto

is a staff lawyer for Agassiz Community Law Centre, Family Unit, Legal Aid Manitoba. Prior to this, he practiced on his own for about five years helping clients in the areas of family law, criminal law, child protection and real estate. Leo has three children. He is a member of the Filipino community and enjoys helping fellow Filipinos with their legal problems whenever he can.

Karen Banuga

is Executive Assistant, Vice President Academic, Copyright Officer and Access and Privacy Coordinator for Assiniboine Community College. She has a Bachelor of Arts Degree from Brandon University and is a member of the Islamic Community. Karen is a strong advocate of women's rights. She loves to travel and finds it helpful in understanding other cultures and belief systems. Karen is married with four children.

John Burchill

has a Bachelor of Arts in Criminal Justice from Athabasca University and a law degree (JD) from the University of Manitoba. He is currently a civilian manager with the Winnipeg Police Service. Prior to re-joining the Police Service he had worked as a Crown Attorney with Manitoba Justice and a Risk Manager with the University of Manitoba. He had been a police officer for 25 years, six of which were spent as a supervisor of the Hate Crimes Team. He has taken training in hate crimes and human rights through Dalhousie University, the University of Manitoba, the California State University (Santa Barbara) and the United Nations Institute for Training and Research.

Commissioners

André Doumbè

was born in Cameroon, Africa and studied Business Administration and was Purchasing Manager at Champs Food Systems from 1986 to 1998. He is currently working as a Market Information Officer at the Market Analysis Group, Grain and Oilseeds Division, Agriculture Canada. Mr. Doumbe has over twenty years community involvement at the grassroots level. He is currently serving as the President of the African Communities of Manitoba Inc. (ACOMI), a coalition of African grassroots organizations. He is a member of the Manitoba Immigration Council. He volunteers at United Way of Winnipeg, as a member of the education Committee. He is past President of Sous le Baobab, a Cameroonian grassroots organization in Winnipeg.

Joan Hay

has lived in Winnipeg's inner city for over twenty-five years. Joan co-authored a book on community development titled *In Their Own Voices: Building Urban Aboriginal Communities*, and is the current President of the Spence Neighbourhood Association. She is also involved with many inner city boards and committees and currently works at the Ma Mawi Wi Chi Itata Centre Inc. as a Community Helper/ Emergency Services Worker and at the Native Women's Transition Centre as a Residential Support Worker. Joan is of Ojibwe/Dakota descent from Waywayseecappo First Nation in Manitoba.

Anne Lacquette

was born and raised in Ebb and Flow, Manitoba where she received her education. She has resided in the community of Mallard for over 52 years and is a very active member of her community. She is on the local school committee and on the Mallard Council, serving as Deputy Mayor and Mayor. Anne is the current Chair of Northern Association of Community Councils Western Region and a member and Elder of the First Nations, Métis, and Inuit Cancer Control Board. She was past Chair of the Provincial Aboriginal Advisory Committee and has served for nine years on the Parkland Regional Health Authority Board. She raised seven children with her late husband, Norman.

Dr. Donn Short, B.A. (Hons.); M.F.A.; J.D.; Ph.D.,

is the author of *Don't Be So Gay: Queers, Bullying, and Making Schools Safe*. He is the recipient of a research Fellowship from the Law Foundation of British Columbia, a Social Sciences Humanities Research Council Standard Research Grant, as well as other academic honours, awards and prizes. At Robson Hall, he founded the group Outlaws and is the founding Editor-in-Chief of the Canadian Journal of Human Rights. He had written a number of dramatic works and is currently at work on two more books - one dealing with bullying in high schools and another assessing sexual orientation and religion-based rights claims. Dr. Short is a member of the education committee of Egale Canada Human Rights Trust.

Loretta Ross

is a member of the Hollow Water First Nation in Manitoba and obtained her law degree from Queens' University. Loretta has been a practicing lawyer for over 20 years and has served as legal counsel to numerous First Nation governments and organizations. Loretta's legal practice has ranged from child and family matters, trust and corporate law, land claims and residential school claims. Loretta strives to balance her work the work with her husband and four children. In her spare time, Loretta loves to curl, golf and watch her children participate in their extra-curricular activities.

RÉSUMÉ EN FRANÇAIS DU RAPPORT ANNUEL DE 2014 DE LA COMMISSION DES DROITS DE LA PERSONNE DU MANITOBA

La Commission des droits de la personne du Manitoba a pour mandat d'offrir des services de médiation, d'enquêter sur les plaintes relatives à de la discrimination, de renvoyer des dossiers à l'arbitrage, de renseigner le public et de faire la promotion des droits de la personne.

Faits saillants de 2014

Changements à la direction et nouveaux membres à la Commission. Azim Jiwa est devenu directeur général en février 2014 et Elliot Leven a quitté le Conseil des commissaires (« la Commission ») pour devenir vice président à la fin de 2014. La Commission a également accueilli un nouveau membre, Donn Short.

Offre raisonnable concernant un animal d'assistance. Une plainte de discrimination concernant la prestation de services par une personne possédant un animal d'assistance pour ses troubles mentaux a été entendue pour la première fois en 2014 par un arbitre indépendant, dans le cadre d'une audience publique. Le plaignant alléguait avoir été victime de discrimination lorsqu'un policier, à la demande d'un établissement, lui a demandé de quitter ledit établissement avec son animal d'assistance. Après une enquête, la Commission a décidé que la plainte devait être entendue par un arbitre indépendant dans le cadre d'une audience publique afin de déterminer s'il y avait eu discrimination ou non. L'intimé a fait une offre pour régler la plainte qui comprenait une compensation monétaire de 5 500 $ en dommages intérêts pour atteinte à la dignité, aux sentiments et à l'estime de soi. Une audience a eu lieu uniquement pour déterminer si l'offre était raisonnable ou non. L'arbitre a jugé que l'offre de l'intimé n'était pas raisonnable, car elle ne s'approchait pas des mesures de redressement qu'un arbitre ordonnerait si les allégations énoncées dans la plainte se révélaient vraies. Le plaignant et l'intimé ont réussi à s'entendre sur un règlement secret après cette décision. Une audience complète pour déterminer le bien fondé de la plainte n'a pas été nécessaire.

Une médiation réussie apporte des changements concrets à des règlements municipaux au bénéfice de tous. Une plainte relative aux droits de la personne a été déposée contre une municipalité après des tentatives en vue d'ouvrir une maison pouvant accueillir trois adultes atteints de déficience intellectuelle dans la collectivité. La municipalité avait refusé d'entendre les requêtes en alléguant que l'organisme plaignant devait faire une demande de changement de zonage afin que le statut de la maison passe de résidence rurale à résidence institutionnelle pour être approuvé. La question consistait à savoir si les règlements municipaux pouvaient être contestés par des commissions des droits de la personne et si ce règlement en particulier était discriminatoire. Après une enquête, la Commission a déterminé que la plainte devait être entendue par un arbitre indépendant dans le cadre d'une audience publique. Un règlement a été conclu avec l'aide d'un médiateur de la Commission pour qu'un amendement au règlement de zonage résidentiel soit proposé et que le règlement municipal en vigueur jusqu'alors ne soit pas interprété de manière discriminatoire. La municipalité a également accepté d'offrir à son personnel et à ses représentants élus une formation continue sur les droits de la personne. Le directeur des services municipaux a également fourni son appui à un comité qui est en train d'élaborer une trousse d'aide à l'intention des municipalités et des fournisseurs de services visant à favoriser l'intégration dans la collectivité, afin de prévenir des obstacles semblables dans d'autres municipalités.

Présentation des changements proposés à la *Loi sur les statistiques de l'état civil*. Des modifications à la *Loi sur les statistiques de l'état civil* ont été proposées après le dépôt d'une plainte relative aux droits de la personne, de sorte qu'une preuve démontrant qu'il y a eu inversion sexuelle chirurgicale ne soit plus nécessaire pour modifier la désignation du sexe sur un acte de naissance. Le Bureau de l'état civil et la Commission ont formé une équipe de travail avec différents intervenants pour réviser la Loi et proposer ce changement. Une fois la loi adoptée, une personne née au Manitoba pourra demander de changer sa désignation de sexe en faisant une déclaration solennelle au Bureau de l'état civil et en fournissant une lettre d'un professionnel de la santé.

Consultations publiques en vue d'examiner les problèmes liés aux animaux d'assistance. La Commission voulait connaître l'opinion des Manitobains sur les problèmes liés aux animaux d'assistance et désirait plus particulièrement entendre les personnes qui en dépendent pour leurs besoins liés à leur incapacité, celles qui dressent ces animaux ou celles qui sont dans l'obligation de leur donner accès. Trois consultations publiques ont eu lieu à Winnipeg et à Brandon, où il a été question des difficultés d'accès et de

RÉSUMÉ EN FRANÇAIS DU RAPPORT ANNUEL DE 2014 DE LA COMMISSION DES DROITS DE LA PERSONNE DU MANITOBA

la confusion relative aux obligations à l'égard des animaux d'assistance. Il en est vite ressorti que les animaux d'assistance effectuent un nombre grandissant de tâches, qui font que la question est en constante évolution.

Accueil chaleureux. La Commission a accueilli chaleureusement l'ouverture du Musée canadien pour les droits de la personne qui a eu lieu en septembre 2014. Bien que la Commission ne soit pas associée au musée, elle reconnaît que l'établissement fera avancer les discussions sur les droits de la personne au Manitoba et fournira l'occasion d'apprendre et de mieux comprendre les enjeux relatifs à ce sujet.

Le processus relatif aux plaintes

Toute personne peut déposer une plainte pour dire qu'il y a eu discrimination qui contrevient au *Code*. Les plaintes doivent généralement être déposées dans un délai d'un an après l'incident ou les incidents. Il n'y a aucun frais associé au dépôt d'une plainte en matière des droits de la personne, ni à la demande de renseignements sur une question relative aux droits de la personne. Si une plainte est déposée dans le délai prescrit et contrevient au *Code*, la Commission doit l'accepter. L'acceptation d'une plainte ne signifie pas que la Commission juge qu'elle est fondée. La Commission joue un rôle de gardien et enquête sur les plaintes afin que seules celles ayant suffisamment de preuve appuyant les allégations de discrimination seront envoyées devant un arbitre indépendant dans le cadre d'une audience publique.

Les employés de la Commission, à savoir les agents de réception, les médiateurs et les enquêteurs, sont impartiaux et ne prendront parti ni pour le plaignant (la personne qui dépose la plainte), ni pour l'intimé (la personne ou l'organisme qui est visé par la plainte).

En 2014, les agents de réception de la Commission ont répondu à presque 4 300 demandes de renseignements. Un grand nombre de ces appels ont été dirigés vers d'autres organismes. Environ 1 200 personnes (ou 28 %) ont demandé un « questionnaire de dépôt des plaintes ». La première étape pour déposer une plainte est de remplir et de retourner ce questionnaire avec une déclaration expliquant les événements donnant lieu à la plainte. De nombreux appels relatifs au dépôt d'une plainte proviennent d'employeurs, de propriétaires ou de fournisseurs de services qui désirent des renseignements afin de mieux respecter leurs obligations en vertu du *Code*. À la suite de ces communications, 372 dossiers ont été ouverts.

Avant le dépôt d'une plainte. Avant qu'une plainte ne soit déposée officiellement, un agent de réception peut recommander une médiation avant le dépôt d'une plainte. Il s'agit d'un processus volontaire, sous toutes réserves, qui consiste à essayer de résoudre la situation avant de déposer officiellement une plainte en matière de droits de la personne. En 2014, 15 dossiers ont été réglés avec succès de cette façon.

Médiation avant enquête. Une médiation avant enquête signifie qu'un médiateur communique avec les parties pour voir si elles peuvent s'entendre sur un règlement volontaire de la plainte. Ce processus a lieu après qu'une plainte officielle a été inscrite et transmise à l'intimé. Pendant la médiation, aucune décision quant au bien fondé de la plainte n'est prise. En 2014, 48 plaintes ont été réglées avec succès de cette façon.

Enquête. Les plaintes qui n'ont pas été réglées dans le cadre du processus de médiation sont dirigées vers un enquêteur. Une enquête dure en moyenne 11 mois, à partir de la date à laquelle un enquêteur reçoit une plainte jusqu'à la communication du rapport d'enquête.

De l'interrogation des témoins à la collecte de documents et de renseignements, les enquêtes sur les plaintes sont menées de manière impartiale afin de bien examiner les positions des deux parties. Un rapport officiel écrit, appelé rapport d'évaluation de l'enquête, qui recommande de donner suite à la plainte ou de la rejeter, est remis à la Commission aux fins d'étude. Le plaignant et l'intimé sont invités à présenter également une déclaration écrite à la Commission afin qu'elle soit examinée en même temps que le rapport d'évaluation de l'enquête. Les enquêteurs ont rédigé *130 rapports d'évaluation de l'enquête en 2014.*

De plus, les enquêteurs et les médiateurs ont préparé 44 rapports relatifs à des plaintes qui ont été retirées ou abandonnées au cours de l'année 2014.

RÉSUMÉ EN FRANÇAIS DU RAPPORT ANNUEL DE 2014 DE LA COMMISSION DES DROITS DE LA PERSONNE DU MANITOBA

Examen de la plainte par la Commission. La Commission étudie le rapport d'évaluation de l'enquête et les déclarations écrites des parties. Si la Commission décide qu'elle dispose d'une preuve suffisante démontrant qu'il y a eu infraction au *Code* et s'il est dans l'intérêt du public de procéder ainsi, elle demande qu'un arbitre indépendant soit nommé pour entendre l'ensemble de la preuve et juger si le plaignant a subi une discrimination. En 2014, la Commission a renvoyé 22 plaintes au processus de médiation de la Commission ou en arbitrage. Par ailleurs, 104 plaintes ont été rejetées par la Commission faute de preuve suffisante pour appuyer la plainte ou l'infraction au *Code*, ou parce que la plainte était futile ou vexatoire.

Médiation de la Commission. Lorsque la Commission juge qu'elle dispose d'une preuve suffisante pour appuyer une plainte et que cette dernière ne peut être rejetée, elle peut permettre aux parties de discuter en vue de parvenir à un règlement par le processus de médiation de la Commission. Il s'agit d'un processus volontaire avant qu'une plainte ne soit renvoyée à une audience publique d'arbitrage. Si un règlement volontaire ne peut être conclu, l'intimé peut demander à la Commission d'évaluer si l'offre proposée est raisonnable. Une offre d'un intimé est jugée raisonnable si la Commission estime qu'elle s'approche des mesures de redressement qu'un arbitre ordonnerait si la plainte était entendue dans le cadre d'une audience publique et que les allégations énoncées dans la plainte se révélaient vraies.

En 2014, huit plaintes ont été réglées de manière volontaire par le processus de médiation de la Commission. La Commission a jugé que les intimés ont fait des offres de règlement raisonnables pour cinq autres plaintes.

Arbitrage. Lorsque la Commission accepte une plainte et que les parties sont incapables de la régler par le processus de médiation de la Commission, la plainte est renvoyée à un arbitre indépendant pour être entendue dans le cadre d'une audience publique. En 2014, 12 dossiers ont été renvoyés à l'arbitrage.

Les avocats de la Commission font une ultime tentative de règlement avant l'audience publique d'arbitrage. En 2014, 11 plaintes ont été réglées par les avocats de la Commission avant la tenue de l'audience prévue, un nombre bien plus élevé que les années précédentes.

Les arbitres sont nommés par le gouvernement du Manitoba, ne sont pas des employés de la Commission et n'ont aucun lien avec elle.

En 2014, huit plaintes ont fait l'objet d'un arbitrage, dont une a été entendue par un arbitre afin de déterminer uniquement si l'offre de l'intimé était raisonnable ou non. Cinq de ces plaintes étaient des plaintes de harcèlement sexuel en milieu de travail, une concernait la discrimination fondée sur la grossesse et deux étaient liées à une incapacité.

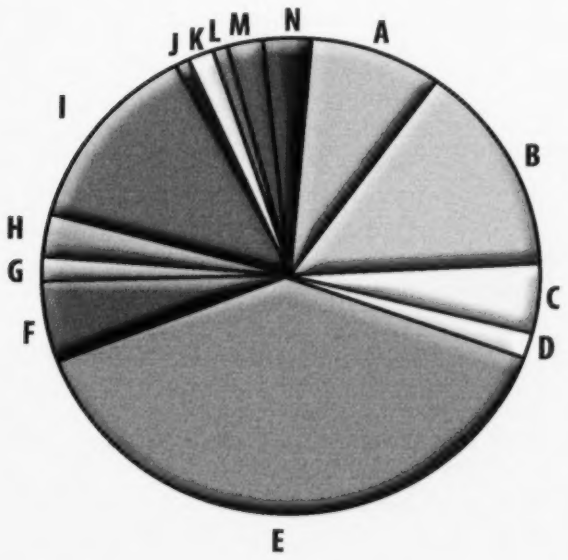
En 2014, quatre décisions ont été rendues qui concernaient des plaintes entendues en 2014 ou dans les années précédentes. Toutes les décisions rendues se trouvent sur le site Web de la Commission.

Sensibilisation aux droits de la personne et responsabilités

La Commission a continué de jouer un rôle important dans l'éducation, en présentant avec succès la conférence des jeunes sur les droits de la personne DREAM, en offrant des séances d'information pour les nouveaux immigrants et des séances de formation pour les employeurs, les fournisseurs de services et les propriétaires.

L'agent de sensibilisation et d'autres membres du personnel ont présenté des exposés de sensibilisation sur la protection des droits de la personne à 2 500 personnes. Environ 590 personnes ont participé à des séminaires éducatifs de la Commission portant sur différents sujets liés aux droits de la personne. L'approche proactive de ces séminaires a permis aux participants d'approfondir leurs connaissances sur les droits de la personne et leurs responsabilités, et d'être mieux outillés pour reconnaître et résoudre les problèmes liés aux droits de la personne.

Formal Complaints Registered in 2014 By Grounds



- A Age (22)
- B Ancestry (45)
- C National Origin (15)
- D Ethnic Origin (2)
- E Disability (129)
- F Marital/Family Status (14)
- G Political Belief (3)
- H Religion (7)
- I Sex (Including Pregnancy) (40)
- J Gender Identity (1)
- K Sexual Orientation (2)
- L Social Disadvantage (1)
- M Source of Income (4)
- N Other (9)

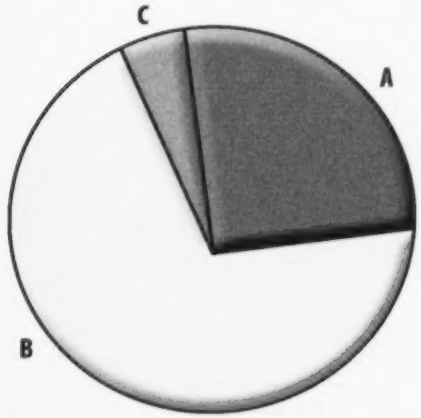
Total Complaints = 294

Files Closed by Grounds up to December 31, 2014

Grounds	Pre-complaint Resolution	Pre-Board Settlements	Withdrawn/ Abandoned	Dismissed by Board	Terminated Other/Offer Found Reasonable	Settled By Board Directed Mediation	Referred to Adjudication	Settled Prior to Adjudication	Adjudicated Complaints
Age	0	1	2	10	0	2	1	0	0
Ancestry	2	6	10	23	0	1	0	0	1
National Origin	0	2	3	6	0	0	0	0	0
Ethnic Origin	0	0	0	0	0	0	0	0	0
Disability	7	27	17	41	0	7	7	7	3
Marital/Family	1	1	2	3	0	0	1	4	0
Political Belief	0	0	0	0	0	0	0	0	0
Religion	0	4	0	2	1	0	0	0	0
Sex (including Pregnancy)	3	7	5	17	0	2	3	0	4
Gender Identity	0	0	0	0	0	1	0	0	0
Sexual Orientation	0	0	1	0	0	0	0	0	0
Social Disadvantage	1	0	2	0	0	0	0	0	0
Source of Income	1	0	0	0	0	0	0	0	0
Other	0	0	1	2	0	0	0	0	0
TOTALS	**15**	**48**	**43**	**104**	**1**	**13**	**12**	**11**	**8**
				Total Complaints by Grounds December 31, 2014					**255**

STATISTICS

Formal Complaints Registered in 2014 By Area



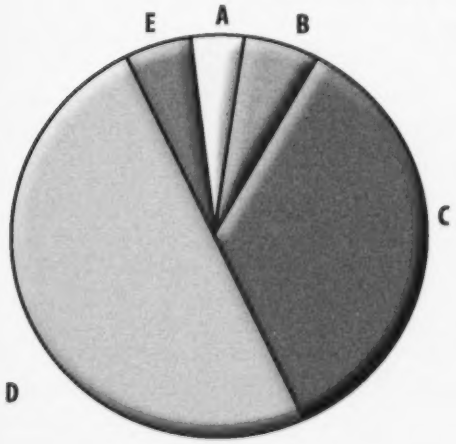
- A Services (57)
- B Employment (223)
- C Housing (14)
- D Contracts (0)

Total Complaints = 294

Files Closed by Area up to December 31, 2014

Area	Pre-complaint Resolution	Pre-Board Settlements	Withdrawn/ Abandoned	Dismissed by Board	Terminated Other/Offer Found Reasonable	Settled By Board Directed Mediation	Referred to Adjudication	Settled Prior to Adjudication	Adjudicated Complaints
Services	4	7	13	27	0	3	0	2	1
Employment	9	40	26	73	1	10	12	9	6
Contracts	0	0	0	0	0	0	0	0	0
Housing	2	1	4	4	0	0	0	0	1
Other	0	0	0	0	0	0	0	0	0
TOTALS	**15**	**48**	**43**	**104**	**1**	**13**	**12**	**11**	**8**
				Total Complaints by Area December 31, 2014					**255**

Formal Complaints Registered in 2014 by Nature of Allegations



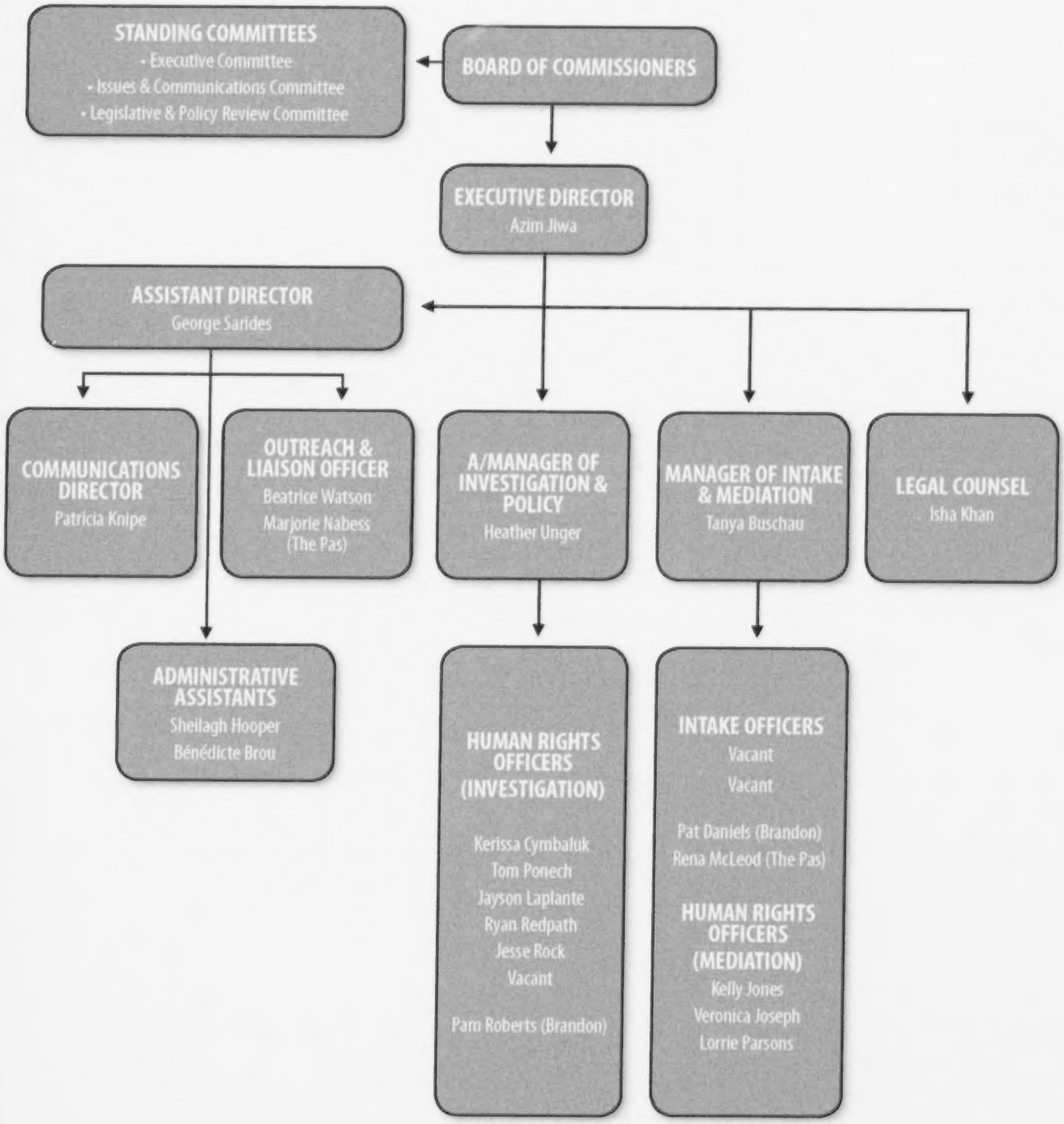
- A Sexual Harassment (13)
- B Other Harassment (15)
- C Reasonable Accommodation (104)
- D Differential Treatment (152)
- E Reprisal (10)

Total Complaints = 294

Files Closed by Nature of Allegation by December 31, 2014

Nature of Allegation	Number of Complaints
Sexual Harassment	8
Other Harassment	14
Reasonable Accommodation	99
Differential Treatment	126
Reprisal	8
TOTAL	**255**

MANITOBA HUMAN RIGHTS COMMISSION ORGANIZATION CHART 2014



THE MANITOBA **HUMAN RIGHTS** COMMISSION

LA COMMISSION DES **DROITS DE LA PERSONNE** DU MANITOBA

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